

## UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/673,535	09/29/2003	Alan F. Wolfschoon-Pombo	1410-67166	1849	
48940 FITCH EVEN	7590 11/13/2007 TABIN & FLANNERY	EXAMINER			
120 S. LASALLE STREET			WONG, LESLIE A		
SUITE 1600 CHICAGO, IL	60603-3406		ART UNIT	PAPER NUMBER	
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			MAIL DATE	DELIVERY MODE	
			11/13/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

This action is FINAL.   2b)   This action is non-final.	-		Application No.	Applicant(s)		
Leslie Wong	Office Action Summary		10/673,535	WOLFSCHOON-		
Period for Repty  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS. WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  Extensions of time may be available under the provision of 37 CFR 1-136(i), in no event, however, may a reply be termly field of this communication.  Extensions of time may be available under the provision of 37 CFR 1-136(i), in no event, however, may a reply be termly field of this communication.  Fallute to legal with the feet or centred period for may with by statuke, cause the application become ABANDONE (30 U.S. C. § 133).  An reply received by the Office later than three months after the mailing date of this communication, even if timely field, may reduce any searned paemit man adjustment. See 37 CFR 1-76(ii).  Status  1) Responsive to communication(s) filled on September 4, 2007.  2a) This action is FINAL.  2b) This action is non-final.  3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 1-16.18 and 19 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5) Claim(s) 1.2.4 and 6-15 is/are allowed.  6) Claim(s) 3.16.18 and 19 is/are rejected.  7) Claim(s) are subject to restriction and/or election requirement.  Application Papers  9) The specification is objected to by the Examiner.  Application Papers  9) The specification is objected to by the Examiner.  Application are not required that any objection to the drawing(s) be held in abovance. See 37 CFR 1.121(d).  11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Periority under 35 U.S.C. § 119  12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) H			Examiner	Art Unit		
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Application/Control Number:

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Claims 1, 2, 4, and 6-15 are allowed.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 3, 16, 18, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Pelt et al (GB 1440182) in view of Soeds (EP 0966887) for the reasons set forth in rejecting the claims in the last office action. The amendments to the claims are not seen to influence the conclusion of unpatentability previously set forth.

Van Pelt et al (GB 1440182) disclose a whey protein stabilized emulsion (see entire document, especially the Examples and claims 1 and 6).

The claims differ as to the use of transglutaminase and the foodstuff base.

Soeds (EP 0966887) discloses a stabilized transglutaminase treated whey protein where the modified protein is used in gel-like foods, such as meat products, and emulsified dairy foods (see entire document, especially paragraphs 0038, 0039, 0040, and 0059 and claims 1, 18, and 19).

It would have been obvious to a person of ordinary skill in the art, at the time the invention was made, to use transglutaminase as taught by Soeds in that of Van Pelt et al because the use of transglutaminase serves to stabilize whey protein.

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Once the art has recognized the use of stabilized whey proteins in the art, the use and manipulation in different food products and conditions is no more than conventional in the art.

Applicant's arguments filed September 4, 2007 have been fully considered but they are not persuasive.

Applicant argues that Van Pelt et al do not teach the claimed acidification or heat treatment.

Van Pelt et al (GB 1440182) disclose a whey protein stabilized emulsion for use in foods (see entire document, especially the Examples and claims 1 and 6). Once the art has recognized the use of stabilized whey proteins in the art, the use and manipulation in different food products and conditions is no more than conventional in the art. Claims 3, 16, 18, and 19 are product claims not process claims. The prior art teaches a whey protein stabilized emulsion as is claimed.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leslie Wong whose telephone number is 571-272-1411. The examiner can normally be reached on Tuesday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on 571-272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Leslie Wong
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